

2023-1891

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UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

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**HMTX INDUSTRIES, LLC, HALSTEAD NEW ENGLAND CORP.,  
METROFLOR CORPORATION, JASCO PRODUCTS COMPANY LLC,**

*Plaintiffs-Appellants,*

v.

**UNITED STATES, OFFICE OF THE UNITED STATES TRADE  
PRRESENTATIVE, KATHERINE TAI, U.S. TRADE  
REPRESENTATIVE, UNITED STATES CUSTOMS AND BORDER  
PROTECTION, TROY MILLER, ACTING COMMISSIONER OF U.S.  
CUSTOMS AND BORDER PROTECTION,**

*Defendants-Appellees,*

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Appeal from the United States Court of International Trade in  
No. 1:20-CV-0177-3jp, Chief Judge Mark A. Barnett, Judge Claire R. Kelly, Judge  
Jennifer Choe-Groves

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**DEFENDANTS-APPELLEES' SECOND  
MOTION FOR EXTENSION OF TIME**

Pursuant to Rule 26(b) of the Federal Circuit rules, defendants-appellees, the  
United States, *et al.*, respectfully request an extension of time of 55 days, to and  
including December 21, 2023, for the Government to file its principal brief. Our  
principal brief is currently due on October 27, 2023. This is our second request for

an extension of time for this purpose. Previously, the Government received a 60-day extension of time for this purpose.

On October 11, 2023, undersigned counsel contacted Pratik Shah and Matthew Nicely, counsel for plaintiffs-appellants via email, and Mr. Shah responded via email requesting that his position be quoted (with added emphasis) as follows: “Plaintiffs sought no extension on their opening appeal brief and already consented to a 60-day extension for the Government’s response brief. Because the Government continues to collect the challenged tariffs from Plaintiffs, and thousands of others similarly situated, Plaintiffs oppose any further extension absent some medical, family, or similar intervening justification (none of which is offered here).”

Good cause supports this request for an additional 55 days within which to file the Government’s principal brief. Specifically, additional time is required because this appeal is a test case or master case for over 4,100 similar actions. Also, in addition to responding to plaintiffs-appellants’ principal brief, there are four *amicus* briefs to which the Government must respond. Preparing a response requires consultation with multiple federal agencies and different components within the Department of Justice. This review process has taken longer than expected and is still ongoing. The requested extension is necessary to allow

undersigned counsel to confer and coordinate with interested agencies and to obtain necessary internal supervisory review.

For these reasons, we respectfully request that the Court grant this request for a 55-day extension of time, to and including December 21, 2023, for the United States to file its principal brief.

Respectfully submitted,

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Attorney General

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Director

/s/ L. Misha Preheim  
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**DECLARATION OF ELIZABETH SPECK**

In support of Defendants-Appellees' Second Motion for Extension of Time,  
defendants-appellees' counsel, Elizabeth Anne Speck, declares, pursuant to 28  
U.S.C. § 1746, as follows:

1. I am the primary attorney assigned to this appeal for the United States.
2. I am working with counsel from various agencies to respond to the

opening brief filed by plaintiffs-appellants HMTX Industries, *et al.*

3. On October 11, 2023, I contacted Pratik Shah and Matthew Nicely, counsel for the plaintiffs-appellants, to obtain their position on this motion and Mr. Shah responded via email requesting that his position be quoted (with added emphasis) as follows: “Plaintiffs sought no extension on their opening appeal brief and already consented to a 60-day extension for the Government’s response brief. Because the Government continues to collect the challenged tariffs from Plaintiffs, and thousands of others similarly situated, Plaintiffs oppose any further extension absent some medical, family, or similar intervening justification (none of which is offered here).”

4. Good cause supports this request for an additional 55 days within which to file the Government’s principal brief. Specifically, additional time is required because this appeal is a test case or master case for over 4,100 similar actions. Also, in addition to responding to plaintiffs-appellants’ principal brief, there are four *amicus* briefs to which the Government must respond. Preparing a response requires consultation with multiple federal agencies and different components within the Department of Justice. This review process has taken longer than expected and is still ongoing. The requested extension is necessary to allow me to confer and coordinate with interested agencies and to obtain necessary internal supervisory review.

**DECLARATION**

I certify that the foregoing is true and correct to the best of my knowledge and belief.

/s/ Elizabeth Anne Speck  
ELIZABETH ANNE SPECK

Executed: October 12, 2023

**CERTIFICATE OF COMPLIANCE**

Pursuant to Fed. R. App. P. 32(a)(7) and Federal Circuit Rule 32(b), the undersigned certifies that the word processing software used to prepare this motion indicates there are a total of 315 words, excluding the portions identified in the rules. The motion complies with the typeface requirements and type style requirements of Fed. R. App. P. 32(a)(5) and has been prepared using Times New Roman 14 point font, proportionally spaced typeface.

/s/ Elizabeth Anne Speck  
ELIZABETH ANNE SPECK